

EXHIBIT 72

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1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 - - -

5 IN RE: NATIONAL PRESCRIPTION

6 OPIATE LITIGATION Case No.

7 1:17-MD-2804

8 APPLIES TO ALL CASES Hon. Dan A.

9 Polster

10 Case No. 1:17-MD-2804

11 - - -

12 January 30, 2019

13 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
14 CONFIDENTIALITY REVIEW

15 Videotaped deposition of JEFFREY

16 S. PEACOCK, held at 200 Vesey Street, New York,

17 New York, commencing at 9:16 a.m., on the

18 above date, before Marie Foley, a Registered

19 Merit Reporter, Certified Realtime

20 Reporter and Notary Public.

21 - - -

22 GOLKOW LITIGATION SERVICES

23 877.370.3377 ph | 917.591.5672 fax

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20 MR. MIGLIORI: Okay. Let's take
21 a break and see if I can get my voice
22 back.

23 THE VIDEOGRAPHER: All right.
24 The time is 10:29 a.m.

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<p>1 Going off the record.</p> <p>2 (Recess taken.)</p> <p>3 THE VIDEOGRAPHER: We are back</p> <p>4 on the record.</p> <p>5 The time is 10:48 a.m.</p> <p>6 MR. MIGLIORI: I appreciate the</p> <p>7 education you gave me on the systems</p> <p>8 of the company. I want to take a step</p> <p>9 back and talk about opioids</p> <p>10 specifically and your obligations on</p> <p>11 opioids.</p> <p>12 Let me show you Exhibit</p> <p>13 Number 5.</p> <p>14 (Peacock Exhibit 5, Title 21</p> <p>15 United States Code Annotated Section</p> <p>16 801, was marked for identification, as</p> <p>17 of this date.)</p> <p>18 BY MR. MIGLIORI:</p> <p>19 Q. As the vice-president of, among</p> <p>20 other things, Regulatory Affairs, you</p> <p>21 agree with me that it's within your</p> <p>22 department ultimately that you are</p> <p>23 responsible for compliance with the</p> <p>24 Controlled Substance Act, correct?</p>	<p>1 have a microphone.</p> <p>2 MR. MIGLIORI: As I was saying</p> <p>3 at the break, I developed a cold and</p> <p>4 my voice is starting to fade.</p> <p>5 So, I will try to talk louder,</p> <p>6 but it -- I feel like I'm screaming.</p> <p>7 But I'll keep -- there's no way to</p> <p>8 move the phone. The microphones are</p> <p>9 built into the table.</p> <p>10 MS. BORSAY: Okay. Thank you.</p> <p>11 MR. MIGLIORI: But I'll do my</p> <p>12 best.</p> <p>13 BY MR. MIGLIORI:</p> <p>14 Q. It says: Congress makes the</p> <p>15 following findings. Many of the drugs</p> <p>16 included within the subchapter have a</p> <p>17 useful and legitimate medical purpose and</p> <p>18 are necessary to maintain the health and</p> <p>19 general welfare of the American people.</p> <p>20 You understand that to be true</p> <p>21 for controlled substances?</p> <p>22 A. Yes, sir.</p> <p>23 Q. The illegal importation,</p> <p>24 manufacture, distribution or possession of</p>
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<p>1 A. Yes, sir.</p> <p>2 Q. And Congress made certain</p> <p>3 findings about controlled substances, like</p> <p>4 opioids.</p> <p>5 Have you ever seen these before?</p> <p>6 MR. McDONALD: In this form?</p> <p>7 MR. MIGLIORI: And I'm referring</p> <p>8 to Exhibit 5 is the -- is the direct</p> <p>9 Congress findings in the Controlled</p> <p>10 Substance Act relative to controlled</p> <p>11 substances.</p> <p>12 A. I have not.</p> <p>13 Q. Let's see if you understand that</p> <p>14 this is part of your charge and</p> <p>15 responsibility within Regulatory Affairs</p> <p>16 at Henry Schein.</p> <p>17 It says Congress --</p> <p>18 MS. BORSAY: I'm sorry to</p> <p>19 interrupt. This is Casteel Borsy with</p> <p>20 Jones Day on the phone.</p> <p>21 I'm having a really difficult</p> <p>22 time hearing the questions now. I</p> <p>23 could hear them before the break. So</p> <p>24 I don't know if you moved or don't</p>	<p>1 improper use of controlled substances have</p> <p>2 a substantial and detrimental effect on</p> <p>3 the health and general welfare of the</p> <p>4 American people.</p> <p>5 Do you agree with that</p> <p>6 statement?</p> <p>7 A. I do.</p> <p>8 Q. Do you believe today that we are</p> <p>9 in an epidemic with respect to the abuse</p> <p>10 and misuse of opioids?</p> <p>11 A. I --</p> <p>12 MR. McDONALD: Object to the</p> <p>13 form.</p> <p>14 Go ahead.</p> <p>15 A. I do.</p> <p>16 Q. We talked about this a little</p> <p>17 earlier, but controlled substances have a</p> <p>18 schedule. Schedule II opioids are, A, the</p> <p>19 drug or other substance -- are classified</p> <p>20 as this: The drug or other substance has</p> <p>21 a high potential for abuse.</p> <p>22 You understand that to be true</p> <p>23 for opioids, correct?</p> <p>24 A. That's correct.</p>

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<p>1 Q. The drug or other substance has 2 a currently accepted medical use in 3 treatment in the United States or 4 currently accepted medical use with severe 5 restrictions.</p> <p>6 Do you appreciate that? Do you 7 agree with that?</p> <p>8 A. Accepted medical use, yes.</p> <p>9 Q. And that there are severe 10 restrictions on that use, correct?</p> <p>11 MR. McDONALD: Object to the 12 form.</p> <p>13 If you know, tell him.</p> <p>14 A. In terms of -- not -- I don't -- 15 I'm not following what it says.</p> <p>16 Q. That there are severe 17 restrictions placed on the use of --</p> <p>18 A. In the ability to acquire them?</p> <p>19 Q. And distribute them.</p> <p>20 A. Yep. Yes.</p> <p>21 Q. Okay. The abuse of the drug or 22 other substance may lead to severe 23 psychological or physical dependence.</p> <p>24 Do you understand that to be</p>	<p>1 A. Correct.</p> <p>2 Q. And part of that obligation of 3 Henry Schein is to maintain an effective 4 control against diversion of particular 5 controlled substances into other than 6 legitimate medical, scientific and 7 industrial channels.</p> <p>8 Do you understand that to be 9 Henry Schein's obligation as a DEA 10 registrant?</p> <p>11 A. Yes, sir.</p> <p>12 Q. In carrying out that obligation, 13 do you understand that there's a specific 14 provision of the Controlled Substance Act, 15 this is Exhibit Number 6, that requires 16 Henry Schein, as a DEA registrant, to 17 design and operate a system to disclose to 18 the registrant suspicious orders of 19 controlled substances?</p> <p>20 Do you understand that is the 21 obligation of Henry Schein to design and 22 operate that system?</p> <p>23 A. Yes, sir.</p> <p>24 (Peacock Exhibit 6, Title 21)</p>
<p>1 part of the classification of a Schedule 2 II drug?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Is there somebody at Henry 5 Schein that is specifically tasked with 6 overseeing the compliance with Schedule II 7 controlled substances, or is that a 8 general obligation within your department, 9 of all people that work for you?</p> <p>10 A. In the Regulatory Department, 11 it's general.</p> <p>12 Q. And you understand that you have 13 a registration that is given by the 14 attorney general of the United States to 15 distribute Schedule II controlled 16 substances which requires you to be in 17 compliance with the Controlled Substances 18 Act, correct?</p> <p>19 A. That is correct.</p> <p>20 Q. And that failure to comply with 21 the Controlled Substances Act could cause, 22 among other things, the suspension or 23 revocation of that DEA registration, 24 correct?</p>	<p>1 Code of Federal Regulations Section 2 1301.74, was marked for 3 identification, as of this date.)</p> <p>4 BY MR. MIGLIORI:</p> <p>5 Q. (Reading) The registrant shall 6 inform the field office -- field division 7 office of the administration in his area 8 of suspicious orders when discovered by 9 the registrant.</p> <p>10 Do you understand that 11 suspicious orders are to be, and have been 12 since 1971, reported to the DEA field 13 office when they are discovered?</p> <p>14 MR. McDONALD: Object to the 15 form.</p> <p>16 A. Yes, sir.</p> <p>17 Q. (Reading) Suspicious orders 18 include orders of unusual size, orders 19 deviating substantially from a normal 20 pattern, and orders of unusual frequency.</p> <p>21 Do you understand that to be, in 22 part, the definition of a suspicious 23 order?</p> <p>24 MR. McDONALD: Object to the</p>

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<p>1 form.</p> <p>2 A. I do.</p> <p>3 Q. So, an order that deviates from</p> <p>4 a prior order in size, in pattern, or in</p> <p>5 frequency, by this definition, is presumed</p> <p>6 suspicious until determined otherwise,</p> <p>7 correct?</p> <p>8 MR. McDONALD: Object to the</p> <p>9 form.</p> <p>10 A. Yes. Yes.</p> <p>11 Q. In your review of the historical</p> <p>12 suspicious ordering monitoring programs of</p> <p>13 Henry Schein, did you ever learn that the</p> <p>14 suspicious order monitoring program</p> <p>15 through 2009, at least, did not measure</p> <p>16 deviations in frequency or pattern? Did</p> <p>17 you ever learn that fact?</p> <p>18 A. I did not.</p> <p>19 Q. Okay.</p> <p>20 A. I had no understanding, no.</p> <p>21 Q. And, to the extent that that is</p> <p>22 true or not, that is something you leave</p> <p>23 to those that were there at the time,</p> <p>24 correct?</p>	<p>1 BY MR. MIGLIORI:</p> <p>2 Q. You can answer.</p> <p>3 A. Could you reclarify or restate,</p> <p>4 please?</p> <p>5 I'm sorry.</p> <p>6 Q. Were you asked to help prepare</p> <p>7 answers to interrogatories in this case,</p> <p>8 or provide information so that the company</p> <p>9 could respond to written questions in this</p> <p>10 case?</p> <p>11 A. No, I was not.</p> <p>12 Q. Did you review yesterday any of</p> <p>13 the written responses of the company in</p> <p>14 this case?</p> <p>15 A. No, I did not.</p> <p>16 Q. Did they show you that Henry</p> <p>17 Schein has not produced any suspicious</p> <p>18 orders for Ohio in this case?</p> <p>19 A. No, they had not.</p> <p>20 Q. Does it surprise you that there</p> <p>21 are no suspicious orders reported to the</p> <p>22 DEA by Henry Schein in this case?</p> <p>23 MR. McDONALD: Object to the</p> <p>24 form.</p>
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<p>1 A. I would have to investigate.</p> <p>2 Can't really make a determination, sir.</p> <p>3 Q. I guess my question is more</p> <p>4 simple then. You're not the person to</p> <p>5 either refute that or affirm that</p> <p>6 statement, correct?</p> <p>7 A. That's correct.</p> <p>8 Q. Are you aware that in Ohio, in</p> <p>9 searching for suspicious orders in this</p> <p>10 case, Henry Schein represented and</p> <p>11 represents that it found no suspicious</p> <p>12 orders reported to the DEA from 2009 to</p> <p>13 the present, that is during the period of</p> <p>14 time that it had transactional</p> <p>15 information?</p> <p>16 MR. McDONALD: Object to the</p> <p>17 form; mischaracterizes and misstates</p> <p>18 the assertions of Henry Schein in this</p> <p>19 case.</p> <p>20 BY MR. MIGLIORI:</p> <p>21 Q. Were you aware of that?</p> <p>22 MR. McDONALD: Object. Same</p> <p>23 objection.</p>	<p>1 A. I would have to see what the</p> <p>2 ordering patterns are, how much the</p> <p>3 volumes were. There's no way I could make</p> <p>4 a determination just without any</p> <p>5 information, sir.</p> <p>6 Q. You would agree with me that if</p> <p>7 there were no suspicious orders for Ohio</p> <p>8 from 2009 to present, it would mean that</p> <p>9 there were no orders that deviated in</p> <p>10 size, frequency, or pattern, by</p> <p>11 definition, correct?</p> <p>12 MR. McDONALD: Object to the</p> <p>13 form.</p> <p>14 A. So, I think, you know, I'd have</p> <p>15 to understand what the -- what the scope</p> <p>16 of this, you know, question is.</p> <p>17 So, if we looked at sales</p> <p>18 volumes, numbers, et cetera, what's the</p> <p>19 practices are there, what's the percentage</p> <p>20 of our total sales, et cetera, I'd be</p> <p>21 better apt to answer that question.</p> <p>22 Q. Fair enough. But I'm not asking</p> <p>23 you about reporting.</p> <p>24 I'm just simply saying that if</p>